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09/645,292	08/24/2000	Linda M Smith	23528-030	3365

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EXAMINER

JANVIER, JEAN D

ART UNIT PAPER NUMBER

3622

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/645,292

**Applicant(s)**

SMITH ET AL.

**Examiner**

Jean Janvier

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### **Response To Applicant's Arguments**

The Applicant's arguments with respect to the claimed invention have been fully considered, but are moot in view of new grounds of rejection.

### **Detailed Action**

### **Specification**

### **Status of the claims**

Claims 21-26 are currently pending in the Application.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 21 (including its dependent claims) is rejected under 35 USC 112, second paragraph for being unclear. Here, the metes and bounds of the claim are not clearly defined. In other words, the subject matter for which the Applicant is seeking patent protection is not readily understood or defined. For examination purpose and in general, the claim is interpreted as -- comparing a user's profile to an advertiser's target profile to determine if the user is qualified to receive a targeted advertisement or - -assigning weight or value to the user's profile and

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comparing the user's profile to the advertiser's specifications or criteria to thereby determine targeted content that should be displayed to the user--.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-26 are rejected under 35 USC 102(b) as anticipated by Dedrick, USP 5,724,521A.

As per claims 21-26, Dedrick discloses a method and system for providing targeted electronic advertisements to end users in a consumer best-fit pricing manner, which includes **an index database, a user profile database, and a consumer scale matching process**. The index database provides storage space for the titles of electronic advertisements. The user profile database provides storage for a set of characteristics corresponding to individual end-users of the apparatus. **The consumer scale matching process, coupled to a content database and the user profile database, compares the characteristics of the individual end users with a consumer scale associated with the electronic advertisement (weighting the user's profile characteristics or assigning an index value to the user's profile with respect to the advertiser's specifications or criteria and charging the advertiser a fee for displaying an**

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**advertising message to the user based on how the user's profile matches the advertiser's criteria (or based on the number of the user's profile characteristics that match the advertiser's criteria)).** The system then charges a fee to the advertiser, based on the comparison by the matching process. **In one embodiment, a consumer scale is generated for each of multiple electronic advertisements.** These advertisements are then transferred to multiple yellow page servers 22 and the titles associated with the advertisements are subsequently transferred to multiple metering servers 14 of fig. 1. **At the metering servers, a determination is made as to where the characteristics of the end users served by each of the metering servers fall on the consumer scale (assigning metrics to the user's profile characteristics or data elements and applying an index value or a weight accordingly with respect to the advertiser's criteria).** The higher the profile characteristics (or the applied or calculated index value or weight related to the user's profile data elements) of the end users served by a particular metering server fall, the higher the fee charged to the advertiser to present one of his advertising messages to the registered user.

**See abstract; fig. 7; col. 1: 63 to col. 2: 19; col. 3: 29-56.**

In general, Dedrick teaches a system for providing electronic advertisements to consumers or users in a consumer best-fit profile wherein an advertiser pays the owner of an advertising medium based on how well the consumer's profile matches the advertiser's defined profile as determined by a Metering server 14 of fig. 1. The higher the profile or characteristics of the consumer served by a particular Metering 14 of fig. 1 falls, the higher the fee charged to the advertiser (See abstract). Moreover, Each client system 12 is provided with an interface, such as a graphic user interface (GUI), that allows the end user to participate in the system 10. The

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GUI contains fields that receive or correspond to inputs entered by the end user. The fields may include the user's name and possibly a password (registration). The GUI may also have hidden fields relating to "consumer variables." Consumer variables **refer to demographic, psychographic and other profile information. Demographic information refers to the vital statistics of individuals, such as age, sex, income and marital status. Psychographic information refers to the lifestyle and behavioral characteristics of individuals, such as likes and dislikes, color preferences and personality traits (psychographic likeness) that show consumer behavioral characteristics.** Thus, the consumer variables refer to information such as marital status, color preferences, favorite sizes and shapes, preferred learning modes, employer, job title, mailing address, phone number, personal and business areas of interest, the willingness to participate in a survey, along with various lifestyle information. This information will be referred to as user profile data (profile characteristics). The end user initially enters the requested data (during a registration process) and the non-identifying information is transferred to the metering server 14. That is, the information associated with the end user is compiled and transferred to the metering server 14 without any indication of the identity of the user (for example, the name and phone number are not included in the computation). The GUI also allows the user to receive inquiries, request information and consume information by viewing, storing, printing, etc. (col. 3: 29 to col. 4: 2). Further, a statistical compilation process or tool 26, stored in the consumer's client system 12 permanent memory or hard disk drive, compiles statistical data regarding the consumer's interaction with a piece of information or advertisement from a given advertiser and subsequently forwards these data to Metering server 14 for further processing when the consumer establishes a

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communication with system 10. In other words, the statistical data include how much time the end-user spent consuming a unit of information or advertisement or electronic content and how much of the advertisement or electronic content was actually consumed or viewed by the end-user. For instance, a particular advertisement may include ten different screens, which are displayed to the consumer via client system 12. If the consumer spends 15 seconds viewing the first screen and 15 seconds viewing the second screen and then terminates the display, the statistic compilation process 26 transfers information to the Metering server 14 indicating that the specific consumer, having a specific profile, had spent 30 seconds reading the first and second screens (two screens out of ten or 20% usage or consumption-Col. 9: 28-48). Finally, at Metering server 14, the compiled information or statistical data is used not only to measure the effectiveness of the system, but also to bill or debit the advertiser's account and credit the consumer's account for spending 30 seconds viewing the two screens out of ten associated with the particular advertisement.

Finally, in one embodiment, the advertiser 18 selects how well the user profile characteristics of end users served by a metering server 14 must match the **consumer scale** in order for the advertiser 18 to pay the highest fee. Note that this highest fee may be a maximum established for the entire system 10 or may be a different maximum for each metering server 14 as established by each metering server 14. For example, the advertiser 18 may select five different consumer variables to associate with a particular advertisement. Then, as part of the consumer threshold scale, the advertiser 18 may select that it will pay the highest fee when at least 60% of the variables are satisfied by at least 75% of the end users coupled to the metering server 14. Thus, in this example, three of the five consumer variables must be associated with

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75% of the end users coupled to the metering server 14 in order for the advertiser 18 to pay the highest fee. Alternatively, a minimum number, such as ten end users, may be utilized rather than a percentage for determining how many end users of the metering server 14 must satisfy the 60% of consumer variables requirement in order for the advertiser 18 to pay the highest fee. The advertiser 18 also sets the lowest price it is willing to pay (such as zero dollars) to allow end users with a very poor match (such as 0% of the variables are satisfied) to the consumer scale (col. 5: 30-53 and claim 12 of the present reference).

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 6,216,129 to Eldering discloses an advertisement selection system in which vectors describing an actual or hypothetical market for a product or desired viewing audience can be determined. An ad characterization vector is transmitted along with a consumer ID. The consumer ID is used to retrieve a consumer characterization vector which is correlated with the ad characterization vector to determine the suitability of the advertisement to the consumer. The consumer characterization vector describes statistical information regarding the demographics and product purchase preferences of a consumer, and is developed from previous purchases or viewing habits. A price for displaying the advertisement can be determined based on the results of the correlation of the ad characterization vector with the consumer characterization vector. The system can be used to both increase the effectiveness and cost efficiency of advertisements,



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as well as for determining the price for transmitting or viewing an advertisement, based on the correlation of the ad with the consumer profile.

WO 97/416783 to Gerace discloses a computer network method and apparatus for providing targeting of appropriate audience based on psychographic or behavioral profiles of end users. The psychographic profile is formed by recording computer activity and viewing habits of the end user. Content of categories of interest and display format in each category are revealed by the psychographic profile, based on user viewing of ad information. Using the profile (with or without additional user demographics), advertisements are displayed to appropriately selected users. Based on regression analysis of recorded responses of a first set of users viewing the advertisements, the target user profile is refined. Viewing by and regression analysis of recorded responses of subsequent sets of users continually auto-targets and customizes ads for the optimal end user audience.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

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JDJ

Jean D. Janvier

Patent Examiner

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**JEAN D. JANVIER  
PRIMARY EXAMINER**

*Jean D. Janvier*